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# HOUSE BILL No. 1469

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1.5-4; IC 8-10-5; IC 36-4-9-6.5; IC 36-9-25; IC 36-10.

**Synopsis:** Local government boards. Provides that in a second class city located in a county having a population of more than 110,000 but less than 115,000, the department of public sanitation may be combined with the department of waterworks to establish a single department of public sanitation and waterworks. Specifies that the department of public sanitation and waterworks may be established only if the board of sanitary commissioners, the board of directors of the department of waterworks, and the city fiscal body each adopt resolutions agreeing to the establishment of the department of public sanitation and waterworks. Specifies that the department of public sanitation and waterworks is under the control of a combined public sanitation-waterworks board. Requires the resolutions agreeing to the establishment of a combined public sanitation-waterworks board to specify the following: (1) The date on which the department of public sanitation and the department of waterworks are combined. (2) The number and the terms of members of the combined board. (3) The appointing authority for members of the combined board. (4) The standards for removal of a member of the combined board. (5) Any residency requirements or other eligibility requirements to serve on the combined board. (6) The amount and source of any compensation for members of the combined board. (7) Any procedural rules or quorum requirements that apply to the combined board. Specifies that the department of public sanitation and waterworks has the powers, duties, and responsibilities of the department of sanitation and the department of waterworks before those departments are combined. Provides that: (1) all property, assets, debt, liabilities, agreements, and contracts of  
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**Effective:** July 1, 2009.

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January 14, 2009, read first time and referred to Committee on Local Government.

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the board of sanitary commissioners and the board of directors of the department of waterworks are transferred to and assumed by the combined board; and (2) all policies, rates, rules, and regulations of the department of public sanitation and the department of waterworks become the policies, rates, rules, and regulations of the department of public sanitation and waterworks. Provides that in a municipality that borders Lake Michigan, the board of directors of the port authority may be combined with the park and recreation board to establish a joint port authority and park and recreation board ("joint board"). Specifies that a joint board may be established only if the municipal fiscal body, the board of directors of the port authority, and the park and recreation board each adopt resolutions agreeing to the establishment of the joint board. Requires the resolutions agreeing to the establishment of a joint board to specify the following: (1) The date on which the board of directors of the port authority and the park and recreation board are abolished and are replaced by the joint board. (2) The number and the terms of members of the joint board. (3) The appointing authority for members of the joint board. (4) The standards for removal of a member of the joint board. (5) Any residency requirements or other eligibility requirements to serve on the joint board. (6) The amount and source of any compensation for members of the joint board. (7) Any procedural rules or quorum requirements that apply to the joint board. Specifies that the joint board has the powers, duties, and responsibilities of a board of directors of a port authority and the powers, duties, and responsibilities of a municipal park and recreation board. Provides that all property, assets, debt, liabilities, agreements, and contracts of the board of directors of the port authority and the park and recreation board are transferred to and assumed by the joint board.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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## HOUSE BILL No. 1469

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 8-1.5-4-2 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) **This section does**  
3       **not apply to a department of public sanitation and waterworks or**  
4       **a public sanitation-waterworks board established under**  
5       **IC 36-9-25-3.5.** If the legislative body of a municipality, by ordinance,  
6       adopts the provisions of this chapter, there is established a department  
7       of waterworks to be controlled by a board of directors (referred to as  
8       "the board" in this chapter). The board consists of either three (3) or  
9       five (5) directors, as determined by ordinance, who shall be appointed  
10      by the municipal executive.

11       (b) In case there are three (3) directors, not more than two (2) may  
12      be of the same political party. In case there are five (5) directors, not  
13      more than three (3) may be of the same political party.

14       (c) The terms of directors shall be prescribed by ordinance, but  
15      initial terms must be prescribed so that the directors' terms will be

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1 staggered. Each director shall give a bond, which shall be fixed by the  
 2 municipal fiscal officer and is subject to ~~his~~ **the fiscal officer's**  
 3 approval.

4 (d) The executive may remove a director at any time when, in ~~his~~  
 5 **the executive's** judgment, it is for the best interest of the department.

6 SECTION 2. IC 8-1.5-4-4 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. **(a)** The board has the  
 8 powers and duties prescribed by IC 8-1.5-3-4. In addition, the board:

9 (1) may hold hearings following public notice;

10 (2) may make findings and determinations;

11 (3) may design, order, contract for or construct pumping plants or  
 12 stations, filtration plants, reservoirs, water mains, hydrants, and  
 13 other equipment, structures, and appurtenances and rebuild,  
 14 equip, improve, extend, and repair plants, equipment, and  
 15 structures;

16 (4) may build or have built all roads, levees, walls, or other  
 17 structures that may be necessary or desirable in connection with  
 18 waterworks;

19 (5) make all necessary or desirable improvements of the grounds  
 20 and premises under its control;

21 (6) may issue and sell bonds for the construction, alteration,  
 22 addition, or extension to the waterworks, in the manner prescribed  
 23 by law, including the provisions of IC 8-1.5-2; and

24 (7) shall furnish an adequate supply of water to consumers within  
 25 the waterworks district.

26 **(b) In a city described in IC 36-9-25-1(a)(1), the department of**  
 27 **public sanitation may be combined with the department of**  
 28 **waterworks to establish one (1) single department of public**  
 29 **sanitation and waterworks as an executive department of the city,**  
 30 **as provided in IC 36-9-25-3.5. A department of public sanitation**  
 31 **and waterworks has the powers, responsibilities, and duties of the**  
 32 **department of sanitation and the department of waterworks before**  
 33 **those departments are combined under this section into the**  
 34 **department of public sanitation and waterworks. A public**  
 35 **sanitation-waterworks board has the powers, responsibilities, and**  
 36 **duties of the board of sanitary commissioners and the board of**  
 37 **directors of the department of waterworks before those boards are**  
 38 **abolished under this section.**

39 SECTION 3. IC 8-10-5-1 IS AMENDED TO READ AS FOLLOWS  
 40 [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter:

41 (1) "Port authority" means a port authority created pursuant to  
 42 authority of this chapter. **The term includes a municipal port**

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**authority governed by a joint port authority and park and recreation board established under IC 36-10-3.5.**

(2) The terms "port" or "harbor" may be used interchangeably and when used in this chapter shall mean any area used for servicing, storing, protecting, mooring, loading or unloading, or repairing any watercraft, on or adjacent to any body of water which may be wholly or partially within or wholly or partially adjacent to the state of Indiana. The terms include a breakwater area.

(3) The term "watercraft" shall mean any vessel, barge, boat, ship, tug, sailingcraft, skiff, raft, inboard or outboard propelled boat, or any contrivance known on March 13, 1959, or invented after March 13, 1959, used or designed for navigation of or use upon water, including a vessel permanently anchored in a port.

(4) "Publication" means publication once a week for two (2) consecutive weeks in a newspaper of general circulation in the city, county, or counties wherein such publication is required to be made.

(5) The term "governing body" shall mean the legislative authority of the governmental unit or units establishing or having established a port authority under the provisions of this chapter.

SECTION 4. IC 8-10-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A port authority created in accordance with the provisions of this chapter shall be governed by a board of directors. Except as provided in subsection (c), members of a board of directors of a port authority created by the exclusive action of a municipal corporation shall consist of the number of members it deems necessary and be appointed by the mayor with the advice and consent of the common council. Members of a board of directors of a port authority created by the exclusive action of a county shall consist of such members as it deems necessary and be appointed by the county commissioners of such county. Members of a board of directors of a port authority created by a combination of political subdivisions shall be divided among such political subdivisions in such proportions as such political subdivisions may agree and appointed in the same manner as this section provides for their appointment when such political subdivision creates its own port authority. When a port authority is created by a combination of political subdivisions, the number of directors composing the board shall be determined by agreement between such political subdivisions.

(b) In the case of a port authority created under section 2 of this chapter in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000),

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the board of directors shall consist of seven (7) members, three (3) of whom shall be appointed by the board of county commissioners, one (1) each by the mayors of the three (3) cities in the county having the largest populations, and the mayor of the city having the largest population shall appoint any remaining member or members. The board shall be appointed as follows:

(1) The mayors of the three (3) cities in the county having the largest populations shall each make one (1) appointment.

(2) The board of county commissioners shall make its three (3) appointments following the naming of the city appointees and appoint persons of such political faith as to make the board of directors a bipartisan body.

(3) If a city is entitled to a second appointment, the mayor shall make the appointment subject to retaining the board's bipartisan status.

(4) In no event may more than three (3) board members residing in the same city serve on said board at the same time.

(5) In no event may more than four (4) members of one (1) political party serve on the board at the same time.

(c) This subsection applies to a port authority created under section 2 of this chapter by the exclusive action of a municipal corporation in a city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000). The board of directors of the port authority consists of five (5) members appointed as follows:

(1) Three (3) members appointed by the mayor of the city.

(2) Two (2) members appointed by the legislative body of the city.

(d) The appointing authority may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office.

(e) At the time of appointment, a director must be a resident of one (1) of the following:

(1) The political subdivision from which the director is appointed.

(2) The county within which the port authority is established.

At all times, a majority of the directors must be residents of the political subdivisions from which the members are appointed.

(f) The directors of any port authority first appointed shall serve staggered terms. Thereafter each successor shall serve for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term and any director shall be eligible for reappointment.

(g) The directors shall elect one (1) of their membership as chairman, and another as vice chairman, and shall designate their terms of office, and shall appoint a secretary who need not be a director. A

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majority of the board of directors shall constitute a quorum the affirmative vote of which shall be necessary for any action taken by the port authority. No vacancy in the membership of the board shall impair the rights of a quorum to exercise all the rights and perform all the duties of the port authority.

(h) Each member of the board of directors of a port authority shall be entitled to receive from the port authority such sum of money as the board of directors may determine as compensation for the member's service as director and reimbursement for the member's reasonable expenses in the performance of the member's duties.

**(i) Notwithstanding any provision of this chapter, a joint port authority and park and recreation board established under IC 36-10-3.5 consists of the members specified under IC 36-10-3.5-4.**

SECTION 5. IC 8-10-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) A port authority shall have full power and authority to do the following:

(1) Purchase, construct, sell, lease, and operate docks, wharves, warehouses, piers, and other port, terminal, or transportation facilities within its jurisdiction consistent with the purposes of the port authority and make charges for the use thereof.

(2) Straighten, deepen, and improve any canal, channel, river, stream, or other water course or way which may be necessary or proper in the development of the facilities of such port.

(3) Establish dock lines, piers, and other facilities necessary to the conduct of pleasure boating within the territory under the jurisdiction of the port authority.

(4) Regulate and enforce the regulation of all uses and activities related to the port in the area under the jurisdiction of the port authority and determine the use of land adjacent to waters under the jurisdiction of the port authority within a reasonable distance from the shore lines of such waters. However, this subdivision does not:

(A) affect the requirement that special standards for the safe operation of watercraft on public waters must be adopted by rule by the department of natural resources under IC 14-15-7-3; or

(B) authorize the assessment by the port authority of a charge or fee for the passage of a watercraft through the navigable waters of the state.

(5) Acquire, own, hold, sell, lease, or operate real or personal property for the authorized purposes of the port authority.

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(A) The board of directors may, by resolution, recommend to the governing body of the municipality or municipalities creating the port authority that they authorize general obligations, mortgage, or revenue bonds for any one (1) or more of the following purposes:

(i) To acquire or improve port or harbor sites.

(ii) To acquire, construct, extend, alter, or improve structures, ways, facilities, or equipment necessary for the proper operation of the port authority or the port or harbor within its jurisdiction.

(iii) To refund outstanding bonds and matured interest coupons and issue and sell refunding bonds for that purpose.

(B) Prior to a recommendation authorized by clause (A), the board shall give notice of a public hearing at which time the board shall disclose the purpose for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data. At least ten (10) days prior to the date set for hearing, the board shall publish in two (2) newspapers of general circulation in the city, county or counties, or such other municipalities involved, a notice of the time, place, and purpose of the hearing. If there is only one (1) paper one (1) notice shall be sufficient.

(C) The governing body shall review the proposal of the board of directors of the port authority and if it approves shall provide for the advertisement and sale of the issue in compliance with IC 5-1-11. For purposes of this chapter, IC 5-1-11 shall apply as fully to mortgage bonds as to general obligation or revenue bonds.

(D) Bonds issued under the authority of this chapter are not subject to limitations on interest rates.

(E) The governing body shall fix the time and place of payment of principal and interest, but no issue shall have a maturity date in excess of forty (40) years from date of issue.

(F) Bonds issued under the provisions of this chapter, together with the interest thereon, shall be tax exempt.

(G) The governing body shall apply the proceeds from the sale of bonds exclusively to the purposes for which the bonds were issued and only to the extent necessary therefor. Any remaining balance shall be placed in a sinking fund for the payment of the bonds and the interest thereon.

(H) Nothing in this chapter shall affect existing obligations on outstanding bonds. In case a board of directors or a port

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authority is discontinued as provided in section 4 of this chapter the primary obligations on its bonds shall remain unaffected. In addition, the city or county or municipalities involved in the issuance thereof shall assume liability for the payment of the bonds according to their terms and in relation to their interest or proportion therein.

(6) With the approval of the governing body creating it, sell, lease, or enter into a royalty contract for the natural or mineral resources of land which it owns. Moneys received from these sources shall be deposited in the nonreverting capital fund of the port authority.

(7) Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones within the limits of the port authority and establish, operate, and maintain such foreign trade zones.

(8) Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property necessary or proper for the construction or the efficient operation of any facility of the port authority, award damages to landowners for real estate and property rights appropriated and taken or injuriously affected, and in case the board of directors of the port authority cannot agree with the owners, lessees, or occupants of any real estate selected by them for the purposes herein set forth, proceed to procure the condemnation of the same as hereinafter provided, and in addition thereto, when not in conflict or inconsistent with the express provisions of this chapter, proceed under the general laws of the state of Indiana governing the condemnation of lands and the rights-of-way for other public purposes which may be in force at the time, and the provisions of such laws are hereby extended to ports and harbors and to the properties of port authorities as provided for herein so far as the same are not in conflict or inconsistent with the terms of this chapter. In any such proceeding prosecuted by the board of directors of a port authority to condemn or appropriate any land or the use thereof or any right therein for purposes permitted by this chapter, the board and all owners and holders of property or rights therein sought to be taken shall be governed by and have the same rights as to procedure, notices, hearings, assessments of benefits and awards, and payments thereof as are now or may hereafter be prescribed by law for the appropriation and condemnation of real estate, and such property owners shall have like powers and rights as to remonstrance and of appeals to the

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circuit or superior courts in the county in which such property sought to be appropriated is located. However, the payment of all damages awarded for all lands and property or interests or rights therein appropriated under the provisions of this chapter shall be paid entirely out of funds under the control of such port authority, except for the following:

(A) Upon written application of any property owner affected, any municipal corporation, or, as to areas outside the boundaries of a municipal corporation, any county, participating in the creation of a port authority, after ten (10) days written notice to the port authority and public hearing had thereon, may revoke the right of eminent domain to be exercised by the port authority as to any parcel or parcels of land inside its borders within sixty (60) days after the port authority has by resolution announced the lands, rights, rights-of-way, franchises, easements, or other property to be taken.

(B) Nothing herein contained shall authorize a port authority to take or disturb property or facilities belonging to any public corporation, public utility, or common carrier, which property or facilities are necessary and convenient in the operation of such public corporation, public utility, or common carrier, unless provision is made for the restoration, relocating, or duplication of such property or facilities, or upon the election of such public corporation, public utility, or common carrier, for the payment of compensation, if any at the sole cost of the port authority, subject to the following:

(i) If any restoration or duplication proposed to be made hereunder shall involve a relocation of such property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and such relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

(ii) Provisions for restoration or duplication shall be described in detail in the resolution for appropriation passed by the port authority.

(9) Accept, receive, and receipt for federal moneys, and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of a port or harbor or other navigation facilities, and sites therefor and comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure

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of federal moneys upon such ports and other navigation facilities.

(10) Maintain such funds as it deems necessary.

(11) Direct its agents or employees, when properly identified in writing, and after at least five (5) days written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done.

(12) Sell or lease real and personal property not needed for the operation of the port authority and grant easements or rights-of-way over property of the port authority.

(13) Promote, advertise, and publicize the port and its facilities, provide traffic information and rate information to shippers and shipping interests, and appear before rate making authorities to represent and promote the interests of the port.

**(b) A municipal port authority governed by a joint port authority and park and recreation board established under IC 36-10-3.5 may exercise any power under this chapter that the municipal port authority could otherwise exercise if the municipal port authority were governed by a board of directors under this chapter instead of the joint port authority and park and recreation board.**

**(c) A joint port authority and park and recreation board established under IC 36-10-3.5 may exercise any power under this chapter that could otherwise be exercised by a board of directors established under this chapter for the municipal port authority.**

SECTION 6. IC 36-4-9-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. A department of public sanitation may be combined with a department of waterworks to establish one (1) single department of public sanitation and waterworks as provided in IC 36-9-25-3.5.**

SECTION 7. IC 36-9-25-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2. As used in this chapter:**

**"Board" refers to a board of sanitary commissioners, or board of public works of a consolidated city. The term includes a public sanitation-waterworks board established under section 3.5 of this chapter.**

**"Department" refers to a department of public sanitation, or department of public works of a consolidated city. The term includes**

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1 **a department of public sanitation and waterworks established**  
 2 **under section 3.5 of this chapter.**

3 "District" means the area within the jurisdiction of a department.

4 SECTION 8. IC 36-9-25-3, AS AMENDED BY P.L.17-2007,  
 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2009]: Sec. 3. (a) **This section does not apply to a**  
 7 **department of public sanitation and waterworks or a public**  
 8 **sanitation-waterworks board established under section 3.5 of this**  
 9 **chapter.** A department of public sanitation is established as an  
 10 executive department of the municipality. However, in the case of a  
 11 district described in subsection (b)(2), the department is established as  
 12 an executive department of each municipality in the district.

13 (b) The department is under the control of a board of sanitary  
 14 commissioners, which is composed as follows:

15 (1) If the department is established under section 1(a) of this  
 16 chapter, the board consists of not less than three (3) but not more  
 17 than five (5) commissioners. All of the commissioners shall be  
 18 appointed by the municipal executive, unless one (1)  
 19 commissioner is the municipal engineer. Not more than two (2)  
 20 of the commissioners may be of the same political party, unless  
 21 the board consists of five (5) commissioners, in which case not  
 22 more than three (3) may be of the same political party.

23 (2) Notwithstanding subdivision (1), if the department is  
 24 established under section 1(a) of this chapter and the district  
 25 contains at least one (1) city having a population of less than one  
 26 hundred thousand (100,000) and at least one (1) town, the board  
 27 consists of one (1) commissioner from each municipality in the  
 28 district. The executive of each of those municipalities shall  
 29 appoint one (1) commissioner. If after all appointments are made  
 30 the board has fewer than five (5) commissioners, the executive of  
 31 the municipality with the largest population shall appoint the  
 32 number of additional commissioners needed to bring the total to  
 33 five (5). Not more than three (3) of the commissioners may be of  
 34 the same political party.

35 (3) If the department is established under section 1(b) of this  
 36 chapter, the board consists of not less than three (3)  
 37 commissioners but not more than five (5) commissioners. One (1)  
 38 commissioner is the city civil engineer. All other commissioners  
 39 shall be appointed by the city executive. Not more than two (2) of  
 40 the commissioners may be of the same political party, unless the  
 41 board consists of five (5) commissioners, in which case not more  
 42 than three (3) of the commissioners may be of the same political

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party. However, if the department is located in a county having a population of:

(A) more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000);

(B) more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000);

(C) more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000); or

(D) more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000);

and the city does not have a city civil engineer, one (1) of the commissioners must be a licensed engineer, appointed by the executive, with at least five (5) years experience in civil or sanitary engineering. In addition, in such a city the commissioners may not hold another public office. Not more than two (2) of the commissioners may be of the same political party, unless the board consists of five (5) commissioners, in which case not more than three (3) of the commissioners may be of the same political party.

(c) Before beginning the commissioner's duties, each commissioner shall take and subscribe the usual oath of office. The oath shall be endorsed upon the certificate of appointment and filed with the municipal clerk.

(d) Each commissioner shall also execute a bond in the penal sum of five thousand dollars (\$5,000) payable to the state and conditioned upon the faithful performance of the commissioner's duties and the faithful accounting for all money and property that comes under the commissioner's control. The bond must be approved by the municipal executive.

(e) The appointed commissioners are entitled to a salary of not less than three thousand six hundred dollars (\$3,600) a year during actual construction and not less than six hundred dollars (\$600) a year in other years.

(f) Notwithstanding IC 36-1-8-10, whenever this section requires that the membership of the board of sanitary commissioners not exceed a stated number of members from the same political party, at the time of appointment the appointee must:

(1) have voted in the two (2) most recent primary elections held by the party with which the appointee claims affiliation; or

(2) if the appointee did not vote in the two (2) most recent primary elections or only voted in one (1) of those elections, be certified as a member of the party with which the appointee

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claims affiliation by that party's county chairman for the county in which the appointee resides.

SECTION 9. IC 36-9-25-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) In a city described in section 1(a)(1) of this chapter, the department of public sanitation may be combined with the department of waterworks to establish one (1) single department of public sanitation and waterworks as an executive department of the city. The department of public sanitation may be combined with the department of waterworks if the board of sanitary commissioners, the board of directors of the department of waterworks, and the city fiscal body each adopt resolutions agreeing to the establishment of the department of public sanitation and waterworks.**

**(b) If a department of public sanitation and waterworks is established under subsection (a):**

- (1) the department of public sanitation and waterworks is under the control of a public sanitation-waterworks board;**
- (2) the department of public sanitation and the department of waterworks are abolished; and**
- (3) the board of sanitary commissioners and the board of directors of the department of waterworks are abolished.**

**(c) The following must be specified in the resolutions adopted under subsection (a) agreeing to the establishment of the department of public sanitation and waterworks:**

- (1) The date on which the department of public sanitation is combined with the department of waterworks to establish one (1) single department of public sanitation and waterworks.**
- (2) The number of members of the public sanitation-waterworks board and the terms of the members of the public sanitation-waterworks board (including the length of any initial terms that are set to allow for staggered terms).**
- (3) The appointing authority for members of the public sanitation-waterworks board.**
- (4) The standards for removal of a member of the public sanitation-waterworks board.**
- (5) Any residency requirements or other eligibility requirements to serve on the public sanitation-waterworks board.**
- (6) The amount and source of any compensation for members of the public sanitation-waterworks board.**

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(7) Any procedural rules or quorum requirements that apply to the public sanitation-waterworks board.

The resolutions agreeing to the establishment of a department of public sanitation and waterworks must contain identical provisions concerning the provisions described in this subsection. The provisions specified in subdivisions (1) through (7) apply to the public sanitation-waterworks board and to the department of public sanitation and waterworks, notwithstanding any other provision of this chapter or any other law.

(d) A department of public sanitation and waterworks has the powers, responsibilities, and duties of the department of sanitation and the department of waterworks before those departments are combined under this section into the department of public sanitation and waterworks.

(e) A public sanitation-waterworks board has the powers, responsibilities, and duties of the board of sanitary commissioners and the board of directors of the department of waterworks before those boards are abolished under this section.

(f) On the date on which the board of sanitary commissioners and the board of directors of the department of waterworks are abolished and are replaced by the public sanitation-waterworks board:

(1) all property, assets, debt, liabilities, agreements, and contracts of the board of sanitary commissioners and the board of directors of the department of waterworks are transferred to and assumed by the public sanitation-waterworks board; and

(2) all policies, rates, rules, and regulations of the department of public sanitation and the department of waterworks become the policies, rates, rules, and regulations of the department of public sanitation and waterworks.

SECTION 10. IC 36-10-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter:

"Board" refers to a park and recreation board. **The term includes a joint port authority and park and recreation board established under IC 36-10-3.5.**

"Department" refers to a department of parks and recreation. **The term includes a department of parks and recreation governed by a joint port authority and park and recreation board established under IC 36-10-3.5.**

"District" means the area within the jurisdiction of a department.

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SECTION 11. IC 36-10-3-4, AS AMENDED BY P.L.128-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A city board consists of four (4) members to be appointed by the city executive. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than two (2) members may be affiliated with the same political party. In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being:

- (1) a member of the governing body of the school corporation selected by that body;
- (2) a member of the governing body of the library district selected by that body; or
- (3) both subdivisions (1) and (2).

(b) A town board consists of four (4) members to be appointed by the town legislative body. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation. Except as provided in section 4.1 of this chapter, not more than two (2) members may be affiliated with the same political party. Members of the board must be residents of the district. In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being:

- (1) a member:
  - (A) of the governing body of the school corporation selected by that body; or
  - (B) designated by the governing body of the school corporation;
- (2) a member of the governing body of the library district selected by that body; or
- (3) both subdivisions (1) and (2).

(c) A county board shall be appointed as follows:

- (1) Two (2) members shall be appointed by the judge of the circuit court.
- (2) One (1) member shall be appointed by the county executive.
- (3) Two (2) members shall be appointed by the county fiscal body.

The members appointed under subdivisions (1), (2), and (3) shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than one (1) member appointed under subdivisions (1) and (3) may be affiliated with the same political party. In a county having at least one (1) first or second class city, the creating ordinance must provide for one (1) ex officio board member to be appointed by the executive of that city. The member appointed by the city executive must be affiliated with a different political party than the

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1 member appointed by the county executive. However, if a county has  
 2 more than one (1) such city, the executives of those cities shall agree  
 3 on the member. The member serves for a term coterminous with the  
 4 term of the appointing executive or executives.

5 (d) Ex officio members have all the rights of regular members,  
 6 including the right to vote. A vacancy in an ex officio position shall be  
 7 filled by the appointing authority.

8 (e) Neither a municipal executive nor a member of a county fiscal  
 9 body, county executive, or municipal fiscal body may serve on a board.

10 (f) The creating ordinance in any county may provide for:

11 (1) the county cooperative extension coordinator;

12 (2) the county extension educator; or

13 (3) a member of the county extension committee selected by the  
 14 committee;

15 to serve as an ex officio member of the county board, in addition to the  
 16 members provided for under subsection (c).

17 (g) The creating ordinance in a county having no first or second  
 18 class cities may provide for a member of the county board to be  
 19 selected by the board of supervisors of a soil and water conservation  
 20 district in which a facility of the county board is located. The member  
 21 selected under this subsection is in addition to the members provided  
 22 for under subsections (c) and (f).

23 **(h) Notwithstanding any provision of this chapter, a joint port**  
 24 **authority and park and recreation board established under**  
 25 **IC 36-10-3.5 consists of the members specified under**  
 26 **IC 36-10-3.5-4.**

27 SECTION 12. IC 36-10-3-11 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The board may:

29 (1) enter into contracts and leases for facilities and services;

30 (2) contract with persons for joint use of facilities for the  
 31 operation of park and recreation programs and related services;

32 (3) contract with another board, a unit, or a school corporation for  
 33 the use of park and recreation facilities or services, and a  
 34 township or school corporation may contract with the board for  
 35 the use of park and recreation facilities or services;

36 (4) acquire and dispose of real and personal property, either  
 37 within or outside Indiana;

38 (5) exercise the power of eminent domain under statutes available  
 39 to municipalities;

40 (6) sell, lease, or enter into a royalty contract for the natural or  
 41 mineral resources of land that it owns, the money received to be  
 42 deposited in a nonreverting capital fund of the board;

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(7) engage in self-supporting activities as prescribed by section 22 of this chapter;

(8) contract for special and temporary services and for professional assistance;

(9) delegate authority to perform ministerial acts in all cases except where final action of the board is necessary;

(10) prepare, publish, and distribute reports and other materials relating to activities authorized by this chapter;

(11) sue and be sued collectively by its legal name, as the "\_\_\_\_\_ (unit's name) Park and Recreation Board", with service of process being had upon the president of the board, but costs may not be taxed against the board or its members in any action;

(12) invoke any legal, equitable, or special remedy for the enforcement of this chapter, a park or recreation ordinance, or the board's own action taken under either; and

(13) release and transfer, by resolution, a part of the area over which it has jurisdiction for park and recreational purposes to park authorities of another unit for park and recreational purposes upon petition of the park or recreation board of the acquiring unit.

(b) The board may also lease any buildings or grounds belonging to the unit and located within a park to a person for a period not to exceed fifty (50) years. The lease may authorize the lessee to provide upon the premises educational, research, veterinary, or other proper facilities for the exhibition of wild or domestic animals in wildlife parks, dining facilities, swimming facilities, golf courses, skating facilities, dancing facilities, amusement rides generally found in amusement parks, or other recreational facilities. A lease may be made for more than one (1) year only to the highest and best bidder, after notice that the lease will be made has been given by publication in accordance with IC 5-3-1.

(c) Notwithstanding subsection (b), the board may lease buildings or grounds belonging to the unit for a period of more than one (1) year without soliciting the highest and best bidder or providing notice under IC 5-3-1 if:

(1) the buildings or grounds are leased to an Indiana nonprofit corporation;

(2) the buildings or grounds are operated as a public golf course; and

(3) the golf course remains subject to rules and regulations promulgated by the board.

**(d) A parks and recreation department governed by a joint port authority and park and recreation board established under**

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IC 36-10-3.5 may exercise any power under this chapter that the parks and recreation department could otherwise exercise if the parks and recreation department were governed by a board established under this chapter instead of the joint port authority and park and recreation board.

(c) A joint port authority and park and recreation board established under IC 36-10-3.5 for a parks and recreation department may exercise any power under this chapter that could otherwise be exercised by a board established under this chapter for the parks and recreation department.

SECTION 13. IC 36-10-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**Chapter 3.5. Joint Port Authority and Park and Recreation Board**

**Sec. 1.** As used in this chapter, "joint board" means a joint port authority and park and recreation board established under section 3 of this chapter for a municipality to govern the municipal port authority and the municipal parks and recreation department.

**Sec. 2.** As used in this chapter, "port authority" means a port authority established under IC 8-10-5.

**Sec. 3. (a)** This section applies only to a municipality that borders Lake Michigan.

**(b)** The board of directors of the port authority for a municipality subject to this section may be combined with the park and recreation board of the municipality to establish a joint port authority and park and recreation board if the municipal fiscal body, the board of directors of the port authority, and the park and recreation board each adopt resolutions agreeing to the establishment of the joint board.

**Sec. 4. (a)** The following must be specified in the resolutions adopted under section 3 of this chapter agreeing to the establishment of a joint board:

- (1)** The date on which the board of directors of the port authority and the park and recreation board are abolished and are replaced by the joint board.
- (2)** The number of members of the joint board and the terms of the members of the joint board (including the length of any initial terms that are set to allow for staggered terms).
- (3)** The appointing authority for members of the joint board.
- (4)** The standards for removal of a member of the joint board.
- (5)** Any residency requirements or other eligibility

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requirements to serve on the joint board.

(6) The amount and source of any compensation for members of the joint board.

(7) Any procedural rules or quorum requirements that apply to the joint board.

The resolutions agreeing to the establishment of a joint board must contain identical provisions concerning the provisions described in this subsection.

(b) After a joint board is established, the provisions specified in subsection (a)(2) through (a)(7) may be amended by identical resolutions adopted by both the joint board and the municipal fiscal body.

(c) A joint board may be abolished and a separate:

(1) board of directors of the port authority; and

(2) park and recreation board;

may be reestablished if agreed to by identical resolutions adopted by both the joint board and the municipal fiscal body.

Sec. 5. The following apply if a joint board is established under this chapter:

(1) The joint board has the powers, duties, and responsibilities of a board of directors of a port authority under IC 8-10-5 and any other provision.

(2) The joint board has the powers, duties, and responsibilities of a municipal park and recreation board under IC 36-10 and any other provision.

(3) On the date on which the board of directors of the port authority and the park and recreation board are abolished and are replaced by the joint board:

(A) all property, assets, debt, liabilities, agreements, and contracts of the board of directors of the port authority and the park and recreation board are transferred to and assumed by the joint board; and

(B) all employees of the board of directors of the port authority and of the park and recreation board become employees of the joint board.

For purposes of any constitutional or statutory debt limitation, the port authority and the park and recreation district are considered separate entities.

(4) The resolution provisions adopted under section 4(a)(2) through 4(a)(7) of this chapter apply to the joint board.

(5) To the extent this chapter and the resolution provisions adopted under section 4(a)(2) through 4(a)(7) of this chapter

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1       are in conflict with IC 8-10-5 or IC 36-10, this chapter and the  
2       provisions adopted under section 4(a)(2) through 4(a)(7) of  
3       this chapter are controlling.

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